

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RAUL DIAZ,
Plaintiff,

v.

TAMMY FERGUSON, *et al.*,
Defendants.

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CIVIL ACTION NO. 18-CV-1996

ORDER

AND NOW, this 12th day of June, 2018, upon consideration of Plaintiff Raul Diaz's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 1), his Prisoner Trust Fund Account Statement (ECF No. 6), and his *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915(b).
2. Diaz, #AS-2274, shall pay the full filing fee of \$350.00 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Diaz, an initial partial filing fee of \$9.46 is assessed. The Superintendent or other appropriate official at SCI Graterford or at any other prison at which Diaz may be incarcerated is directed to deduct \$9.46 from Diaz's inmate trust fund account, when such funds become available, and forward that amount to the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106, to be credited to Civil Action No. 18-1996. After the initial partial filing fee is collected and until the full filing fee is paid, the Superintendent or other appropriate official at SCI Graterford or at any other prison at which Diaz may be incarcerated, shall deduct from Diaz's account, each time that Diaz's inmate trust fund account exceeds \$10.00, an amount no greater than 20 percent of the money credited to his account

during the preceding month and forward that amount to the Clerk of Court at the address provided above to be credited to Civil Action No. 18-1996.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Graterford.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED without prejudice** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and Rule 8 of the Federal Rules of Civil Procedure, for the reasons set forth in the Court's Memorandum.

6. Diaz is given leave to file an amended complaint within thirty (30) days of the date of this Order in the event that he can cure the defects identified in his initial Complaint. Any amended complaint must identify the defendants in the caption in addition to the body, and shall state the basis for Diaz's claims against each defendant. If Diaz does not know the identity of any of the individuals responsible, he may refer to them as Jane or John Doe. Upon the filing of an amended complaint, the Clerk of Court shall not make service until so **ORDERED** by the Court.

7. The Clerk of Court is **DIRECTED** to send Diaz a blank copy of this Court's current form to be used by a prisoner filing a civil rights action bearing the above-captioned civil action number.

8. If Diaz fails to file an amended complaint, his case may be dismissed for failure to prosecute without further notice.

BY THE COURT:

/s/ Jeffrey L. Schmehl
JEFFREY L. SCHMEHL, J.